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**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF CALIFORNIA**

FRESNO DIVISION

In re
RDX, Inc.,
Debtors

CASE No. 17-12463
DC No. FRB-1
Chapter 7

**EX PARTE APPLICATION FOR AN
ORDER SETTING A HEARING ON
SHORTED NOTICE ON CREDITOR TBK
BANK, SSB'S MOTION FOR RELIEF
FROM THE AUTOMATIC STAY**

[Filed concurrently with Declaration of Dirk Copple in Support of Ex Parte Relief; Motion for Relief from Stay; Memorandum of Points and Authorities in Support of Motion for Relief from Stay; Declaration of Dirk Copple in Support of Motion for Relief from Stay; and Appendix of Exhibits]

[No Hearing Required on Ex Parte Application]

24 Secured creditor, TBK Bank, SSB, a Texas State Savings Bank ("TBK"), hereby submits
25 this Ex Parte Application for an Order Setting a Hearing on Shortened Notice on TBK's Motion
26 for Relief From the Automatic Stay ("Motion"), seeking a hearing at the first-available date and
27 time. Concurrently with the filing of this Ex Parte Application, TBK is filing a declaration of Dirk
28 Copple in support of the ex parte relief requested, as well as the underlying Motion for Relief from

1 Stay, and supporting documents related thereto, as well as a proposed order related to this Ex Parte
2 Application.

3 **INTRODUCTION**

4 As set forth in detail in the separately and concurrently-filed Motion for Relief from Stay,
5 declaration of Dirk Copple in support of stay relief, and appendix of exhibits related to stay relief,
6 and as summarized below, TBK should be granted relief from the automatic stay. TBK made two
7 loans to the Debtor RDX, Inc. ("Debtor"), which are secured by personal property collateral,
8 including 68 trailer tractors and 15 trailers ("Trucks"). The total amount outstanding under both
9 loans totals more than \$2.2 million. The value of the Trucks is approximately \$1.4 million at best.

10 **BASIS FOR EX PARTE RELIEF**

11 Exigent circumstances exist for which TBK seeks a hearing on a shortened basis.
12 Specifically, none of the Trucks are insured. Without insurance, the Trucks are not protected from
13 potential accidents with uninsured third parties. In fact, TBK has now learned and provided
14 evidence thereof that at the time the loan was made, the Debtor provided false and forged
15 insurance certificates to TBK and did not have insurance at the inception of the larger loan
16 identified in the Motion as LSA 1. *See* Declaration of Dirk Copple in Support of Motion for
17 Relief from Stay, ¶18; Appendix of Exhibits, Exh. 10.

18 In addition, of the vehicles which TBK has repossessed (prior to the bankruptcy filing),
19 each one of these vehicles has been damaged in what appears to be intentional acts by the Debtor's
20 own principals. The Debtor has left other Trucks with major repair bills, as can be seen from the
21 Declaration of Dirk Copple in support of this Application (¶¶5,6) and in the separately-filed
22 declaration of Dirk Copple in support of the Motion for Relief From Stay (¶¶19, 20, 25, 26), all of
23 which is adversely affecting the value of the collateral and increasing TBK's risks of losses.
24 Without a hearing on a shortened basis, TBK will suffer irreparable harm because the Debtor and
25 its principals have been cannibalizing and destroying the collateral.

26 **SUMMARY OF MOTION FOR RELIEF FROM STAY**

27 In accordance with Local Rule 9014-1(f)(3), TBK is filing its Motion concurrently with
28 and as an exhibit related to this Ex Parte Application. The Motion seeks immediate relief from the

1 automatic stay pursuant to 11 U.S.C. §§ 362(d)(1) and (d)(2) to allow TBK to exercise all
2 available non-bankruptcy law remedies, including repossession and sale of the Trucks before their
3 value diminishes any further due to intentional or accidental damage.

4 In short, "cause" for relief from stay under § 362(d)(1) exists for several reasons. First,
5 TBK is not adequately protected. There is no equity in the Trucks, and they are depreciating from
6 use, among other things. In addition, the collateral has been, and presumably still is being,
7 subjected to intentional damage. Several of the Trucks are in need of substantial repairs. Finally,
8 it has come to the attention of TBK that all of the Trucks are uninsured as of Sunday, July 2, 2017,
9 due to a lapse in insurance coverage. This is particularly troubling, given the obvious potential for
10 uncompensated damage to the collateral by uninsured third-parties. Moreover, there is clear and
11 present danger to others with the Debtors running around in Trucks which could injure persons
12 and property without insurance. When the Court looks at the Debtor's Schedules, the Debtor has
13 shown its distaste for complying with rules, laws, and regulations, as the Court will see traffic
14 violation, after traffic violation, on its Schedules. In addition, relief should be granted under
15 § 362(d)(2) because the Trucks lack equity for the Estate and there is no prospect of an "effective
16 reorganization" in this chapter 7 case.

17 WHEREFORE, TBK respectfully requests that the Court:

18 1. Enter the proposed order granting this Ex Parte Application; and
19 2. Set a hearing on the Motion at the first-available date and time on the Court's
20 calendar.

21
22 DATED: July 6, 2017

FRANDZEL ROBINS BLOOM & CSATO, L.C.

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24 By: /s/ Andrew K. Alper

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